IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

FIRST APPEAL NO. 761 OF 1993

Smt.Devikabai Neelkanth Sahare,)
Age Adult, Occ. Household,)
Residing at 436, Guruwar Peth,)
Pune - 411 042. ...).. Appellant.

Versus

1) Raza Shah Fakir Takiya and)
Masjid Trust (A Public Trust)
registered under the provis-)
ions of the Bombay Public)
Trusts Act, 1950, having its)
registered office at 436,)
Guruwar Peth, Pune-411 042.)
THROUGH ITS TRUSTEES)

A) Hasan Haji Ali Gulam Raza)

B) Sayyad Zulfikar Ali Ahmad)
Hussain,)

C) Mohamad Raza Haji Shahadat)
Hussain,)

D) Aulad Hussain Haji Shahadat)
Hussain,)

E) Mohamad Mahandi Mohamad Ali)
Ganji,)
F) Sayyad Shaukat Ali)
G) Sayad Talib Ali Hussain Ali)
2) Smt. Haharabi W/o Bade Miya)
Jahagirdar, Adult, since)
deceased by her L.Rs. Deft.)
Nos.3 to 7.)
3) Nazir Ahmad Bade Miya)
Jahagirdar, Adult, Occ.Nil)
4) Bashir Ahamed Bade Miya)
Jahagirdar, Adult, Occ.Nil.)
5) Smt. Fahemida Bade Miya)
Jahagirdar, Adult, Occ.:)
Household.)
6) Smt.Mehmudbai Bade Miya)
Jahagirdar, Age Adult,)
Occ: Household, All R/o.436,)
Guruwar Peth, Pune - 42.)
7) Mrs. Nasimabi Shaikh Bashir)
Age 40 Years, Occ:Household)
R/o. 1368, Raviwar Peth,)
Pune - 411 002. ....).. Respondents.

Mr. A. V. Anturkar for the Appellant.

Mr. S. M. Sabrad for the Respondents.

-: ALONG WITH :-

CIVIL APPLICATION NO. 1529 OF 2001

IN

FIRST APPEAL NO. 761 OF 1993

1) Raza Shah Fakir Takiya and)
Masjid Trust (A Public Trust)
registered under the provis-)
ions of the Bombay Public)
Trusts Act, 1950, having its)
registered office at 436,)
Guruwar Peth, Pune-411 042.)
THROUGH ITS TRUSTEES)

A) Hasan Ali Gulam Raza Khalily)
Age-Adult, Occ: Business,)
Managing Trustee.)

B) Sayyad Zulfeqarali A. Hussain)
Age-Adult, Occ: Business,)
Secretary.)

C) Mohammed Mendhi M. Ali Ganji,)
Age-Adult, Occ: Business,)
Trustee.)

D) Sayyed Mahamood Hasham)
Moosavi, Age-Adult, Occ:)
Business, Trustee.)
E) Mohammed Hussain Mastan,)
Age-Adult, Occ: Business,)
Trustee.)
F) Sayyed Ahamed Ali Ikhteqarali)
Age-Adult, Occ: Business,)
Trustee.)
Nos.D to F are appointed as)
New Trustees.)
Address for 1-A to 1-F is)
436, Guruwar Peth, Pune -)
411 042. ... ...)... Petitioners.

Versus

1) Smt.Devikabai Neelkant Sahare)
Age Adult, Occ. Household,)
Residing at 436, Guruwar Peth)
Pune - 411 042. ...)
2) Smt. Haharabi W/o Bade Miya)
Jahagirdar, Adult, since)
deceased by her L.Rs. Deft.)
Nos.3 to 7.)
3) Nazir Ahmad Bade Miya)
Jahagirdar, Adult, Occ.Nil)

4) Bashir Ahamed Bade Miya)
Jahagirdar, Adult, Occ.Nil.)
5) Smt. Fahemida Bade Miya)
Jahagirdar, Adult, Occ.:)
Household.)
6) Smt.Mehmudbai Bade Miya)
Jahagirdar, Age Adult,)
Occ: Household, All R/o.436,)
Guruwar Peth, Pune - 42.)
7) Mrs. Nasimabi Shaikh Bashir)
Age 40 Years, Occ:Household)
R/o. 1368, Raviwar Peth,)
Pune - 411 002. ....).. Respondents.

Mr. S. M. Sabrad for Petitioners.
Mr. A. V. Anturkar for Respondent No.1

CORAM : ANOOP V. MOHTA, J.

DATED : 20TH DECEMBER, 2005.

JUDGMENT :

In view of the decision dated 13th/14th December, 2005 in First Appeal Nos.755 of 1993, 756 of 1993, 759

of 1993, 763 of 1993 and 764 of 1993 the question as decided and argued are same. The appellant herein is also similarly placed on basic facts. Therefore, this appeal along with civil application is also disposed of, with no order as to costs.

2. However, at the request of the advocate appearing for the appellant / plaintiff and as consented by the learned advocate for the respondents, time to vacate the premises, if not already vacated, is granted for six months subject to the appellant filing an usual undertaking along with all other adult members, who are occupying the premises in question within four weeks from today as a condition precedent for time to vacate the premises. Failing which the respondents / original plaintiffs are at the liberty to proceed in accordance with the law to take the possession.

Sd/-

(ANOOP V. MOHTA,J.)